

## § 9901.516

and 3309 through 3320, as applicable, and will be available in writing for applicant review. These procedures will also include provisions for employees entitled to priority consideration referred to in 5 U.S.C. 8151.

(c) In establishing examining procedures for appointing employees in the competitive service under paragraph (b) of this section, the Secretary may use traditional numerical rating and ranking or alternative ranking and selection procedures (category rating) in accordance with 5 U.S.C. 3319(b) and (c).

(d) The Secretary will apply the requirements of paragraphs (a) through (c) of this section to the recruitment of applicants for time-limited positions in the competitive service in order to qualify an appointee for noncompetitive conversion to a competitive position in the career service, in accordance with § 9901.511.

## § 9901.516 Internal placement.

The Secretary may prescribe implementing issuances regarding the assignment, reassignment, reinstatement, detail, transfer, and promotion of individuals or employees into or within NSPS. Such implementing issuances will be made available to applicants and employees. Internal placement actions may be made on a permanent or temporary basis using competitive and noncompetitive procedures. Those exceptions to competitive procedures set forth in 5 CFR part 335 apply to NSPS.

## Subpart F—Workforce Shaping

### § 9901.601 Purpose and applicability.

This subpart contains the regulations implementing the provisions of 5 U.S.C. 9902(k) concerning the Department's system for realigning, reorganizing, and reshaping its workforce. This subpart applies to categories of positions and employees affected by such actions resulting from the planned elimination, addition, or redistribution of functions, duties, or skills within or among organizational units, including realigning, reshaping, delayering, and similar organizational-based restructuring actions. This subpart does not apply to actions involving the conduct

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and/or performance of individual employees, which are covered by subpart G of this part.

### § 9901.602 Scope of authority.

When a specified category of employees is covered by the system established under this subpart, the provisions of 5 U.S.C. 3501 through 3503 (except with respect to veterans' preference) are modified and replaced with respect to that category, except as otherwise specified in this subpart. In accordance with § 9901.105, the Secretary will prescribe implementing issuances to carry out the provisions of this subpart.

### § 9901.603 Definitions.

In this subpart:

*Competing employee* means a career employee (including an employee serving an initial probationary period), an employee serving on a term appointment, and other employees as identified in implementing issuances.

*Competitive area* means the boundaries within which employees compete for retention under this subpart, based on factors described in § 9901.605(a).

*Competitive group* means employees within a competitive area who are on a common retention list for the purpose of exercising displacement rights.

*Displacement right* means the right of an employee who is displaced from his or her present position because of position abolishment, or because of displacement resulting from the abolishment of a higher-standing employee on the retention list, to displace a lower-standing employee on the list on the basis of the retention factors.

*Modal rating* means, for the purpose of reduction in force, the rating of record that occurs most frequently in a particular competitive group.

*Notice* means a written communication to an individual employee stating that the employee will be displaced from his or her position as a result of a reduction in force action under this subpart.

*Rating of record* has the meaning given that term in § 9901.103.

*Retention factors* means tenure, veterans' preference, performance, length of service, and such other factors as the Secretary considers necessary and

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appropriate to rank employees within a particular retention list.

*Retention list* means a list of all competing employees occupying positions in the competitive area, who are grouped in the same competitive group on the basis of retention factors. While all positions in the competitive group are listed, only competing employees have retention standing.

*Tenure group* means a group of employees with a given appointment type. In a reduction in force, employees are first placed in a tenure group and then ranked within that group according to other retention factors.

*Undue interruption* means a degree of interruption that would prevent the completion of required work by an employee within 90 days after the employee has been placed in a different position.

### § 9901.604 Coverage.

(a) *Employees covered.* The following employees and positions in DoD organizational and functional units are eligible for coverage under this subpart:

(1) Employees and positions who would otherwise be covered by 5 U.S.C. chapter 35 (excluding members of the Senior Executive Service and employees who are excluded from coverage by other statutory authority); and

(2) Such others designated by the Secretary as DoD may be authorized to include under 5 U.S.C. 9902.

(b) *Actions covered*—(1) *Reduction in force.* This subpart will apply when a displacement action occurs within a retention list or when releasing a competing employee from a retention list by separation, reduction in band, or assignment involving displacement, and the release results from an action described in § 9901.601.

(2) *Transfer of function.* The Secretary will issue implementing issuances consistent with 5 U.S.C. 3503 prescribing procedures to be used when a function transfers from one competitive area to a different competitive area.

(3) *Furlough.* The provisions in 5 CFR 351.604 will apply when furloughing a competing employee for more than 30 consecutive calendar days, or more than 22 workdays in 1 calendar year if done on a discontinuous basis, except as otherwise provided in this subpart.

(c) *Actions excluded.* This subpart does not apply to—

(1) The termination of a temporary promotion or temporary reassignment and the subsequent return of an employee to the position held before the temporary promotion or temporary reassignment (or to a position with comparable pay band, pay, status, and tenure);

(2) A reduction in band based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error or classification actions covered under § 9901.222;

(3) Placement of an employee serving on a seasonal basis in a nonpay, nonduty status in accordance with conditions established at time of appointment;

(4) A change in an employee's work schedule from other-than-full-time to full-time;

(5) A change in an employee's mixed tour work schedule in accordance with conditions established at time of appointment;

(6) A change in the scheduled tour of duty of an other-than-full-time schedule;

(7) A reduction in band based on the reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days; or

(8) Any other personnel action not covered by paragraph (b) of this section.

### § 9901.605 Competitive area.

(a) *Basis for competitive area.* The Secretary may establish a competitive area on the basis of one or more of the following considerations:

(1) Geographical location(s);

(2) Line(s) of business;

(3) Product line(s);

(4) Organizational unit(s); and

(5) Funding line(s).

(b) *Employees included in competitive area.* A competitive area will include